IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NOs: 10379 and 10381 of 1996

Between:

M.R.Reddy, S/o. M.Bal Reddy.
R/o. No.13, LIGH Quarters, Zahirabad,
Medak.

... PETITIONER

AND

1 Mandal Revenue Officer,
Zahirabad, Medak.
2 Executive Engineer, PWD & P&B, Sanga Reddy,
Medak.
3 The District Collector,
Sangareddy, Medak.
4 The Municipal Administration Director,
Govt. of A.P., Hyderabad.
5 The Commissioner, Nagara Panchayat,
Zahirabad, Medak.

s...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ particularly one in the nature of writ of Mandamus calling for the records of the impugned proceedings No. D-3989/93, dated 23/05/1996 issued by the 1st respondent seeking eviction of the petitioner from LIGH Q.No. 13, of Zahirabad, and same may be declared as illegal unlawful and against the principles of natural justice consequently directing the respondents to allot the above quarter to the petitioner on hire purchase basis as per the G.O.MS.No. 56, dated 28/10/1989.

Counsel for the Petitioner: MR.M.DAMODAR REDDY

Counsel for the Respondents: GP FOR GENERAL ADMINISTRATION

G.P. for Revenue: R1 & R3, G.P. for Tr&R&B-R2
G.P. for Municipal Administration: R4 and 5.

WRIT PETITION NO: 10381 of 1996

Between:

Abdul Saleem, S/o. Late Shaik Ahmed.
R/o. Q.No.5, LIGh Quarters,
Zahirabad.

... PETITIONER

AND

1 Mandal Revenue Officer,
Zahirabad, Medak.
2 Executive Engineer,
PWD & R&B Sanga Reddy, Medak.
R2 IS DISMISSED FOR DEFAULT AS PER COURT ORDER AT 17-4-2000.
3 The District Collector,
Sangareddy, Medak.
R2 IS DISMISSED FOR DEFAULT AS PER COURT ORDER AT 17-4-2000.
4 The Director, Municipal Administration,
Govt. of A.P., Hyderabad.

(W.P. disd. For default as against RR 2 & # as per Court order dt.17-4-2000.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ particularly one in the nature of Writ of Mandamus calling for the records of the impugned proceedings No. D/3989/93, dated 23/05/1996 issued by the 1st respondent seeking eviction of the petitioner from LIGH Q.No.5, of Zahirabad and same may be declared as illegal, unlawful and against

the principles of natural justice consequently directing the respondents to allot the above quarter to the petitioner on hire purchase basis as per the G.O.Ms.No.56, dated 28/10/1989.

Counsel for the Petitioner: MR.M.DAMODAR REDDY

Counsel for the Respondents: GP FOR GENERAL ADMINISTRATION

G.P for Revenue R1 and R3, G.P for Transport & R&B-R2

G.P for Municipal Administration for R-4.

The Court made the following Order:

COMMON ORDER:

Since the issue involved in both the Writ Petitions is inter-linked, they are being disposed of by this Common order.

2. Petitioner in W.P.No.10379 of 1996 working in the Education Department was allotted quarter No.13, Low Income Group (LIGH), Zahirabad, Medak District in the year 1973 on rental basis by the Roads and Buildings Department, whereas the petitioner in W.P.No.10381 of 1996 who is working as a Co-operative Sub Registrar was allotted quarter No.5 of LIGH, Zahirabad, Medak District. They filed the present Writ Petitions questioning the impugned proceedings dated 23-05-1996 issued by the first respondent for their eviction from the LIGH quarters claiming that they are entitled to the benefits under G.O.Ms.No.56, dated 28-10-1989 for allotting the house on Hire Purchase Basis.

3. Writ Petition No.10381 of 1996 was already dismissed against respondents 1 and 3 for default on 17-04-2000. In view of

the same, the Writ Petition is liable to be dismissed against other respondents also.

4. It is not in dispute that under the LIGH Scheme, Zahirabad municipality intended to allot the quarters for persons of lower income group on hire purchase basis, but it could not maintain the above quarters. So, it transferred the quarters to the R&B department for maintenance and allotment to Government employees on rental basis. Accordingly, the petitioner in W.P.No.10379 of 1996 was allotted quarter No.13 on payment of house rent at 7.5% of his basic pay or standard rent whichever is less. The rent deduction has to be made from his pay bill and the fact of recovery particulars have to be reported to R&B Department every month by the Drawing and Disbursing Officers. At the time of allotment, the petitioners were also instructed in allotment proceedings, that they should intimate the date of vacation of quarter on their transfer to other place and get the no due Certificate from the (R&B) Department. The petitioner in W.P.No.10379 of 1996 had already been transferred from Zaheerabad to Kavali Village and failed to intimate the same. In view of the same, P.W.D. (R&B) Department is entitled to collect the normal rent from the allottee and penal rent from the un-authorized occupants. Likewise, the petitioner in W.P.No.10381 of 1996, who was allotted quarter No.5, while he was working as Junior Inspector in Co-operative Department, Zahirabad, failed to vacate the same and hand over the possession on his attaining the age of superannuation.

5. The Government in G.O.Ms.No.56, Housing, dated

28-10-1989 issued guidelines for allotment of quarters on hire purchase basis permitting the municipalities to consider the case of existing occupants who are in occupation for more than two years and to allot the houses on hire purchase basis to all those persons who were in occupation prior to 1986 as a special case as per the prescribed guidelines in the light of the memo issued earlier.

6. The Government of A.P. in its memo No.3655/E1/63-22/Housing, dated 28-08-1965, clarified the District Collector, Medak District that houses constructed under the Low Income Group Housing Scheme by the Government or Local bodies can be sold either out right or on hire purchase basis or let out on no profit and no loss basis to eligible persons provided that not more than 25% of such houses will be allotted by them to their own employees. As some of these buildings are now vacant it is available to let them out temporarily on rental basis until they are sold on hire purchase basis after giving publicity. When the petitioners, who have not paid the rent and continued in occupation, inspite of their transfer/superannuation, impugned notice dated 23-05-1996 was issued to the petitioners stating that why action should not be taken for due eviction from the quarters, which led to the filing of the present Writ Petitions.

7. In the counter filed by the respondents, it is categorically stated that once the quarters were transferred to R&B Department for maintenance and allotment of the same to Government employees on rental basis and when there is no intimation of the date of vacation of the quarters by the petitioners, the request of

the petitioners for permanent allotment cannot be considered by the Mandal Revenue Officer.

8. Learned counsel for the petitioners is not in a position to say how the petitioners are entitled to the benefit under the G.O., since they are not allotted quarters by municipality from among the 25% of quarters which are earmarked for such allotment and he is not able to specify that petitioners' income is less than the particular amount to be eligible for being allotted quarter under the hire purchase agreement. Admittedly, the said quarters were constructed under the LIGH Housing scheme sponsored by the Government of India to be allotted to the employees under the scheme under which houses would be allotted on hire purchase basis following certain reservation made by the Government from time to time i.e., 15% for defence personnel, 25% for State Government Employees including local bodies, 10% for industrial workers and 35% for general public. The municipality in both the regions resorted to allotment of houses on rental basis to ward off the financial loss to the Municipality. In view of the same, Government issued the said G.O. for such allotment made by the municipalities on rental basis and where the rental allottees have been in houses for not less than 2 years, the procedure has to be followed for regularization of the same, but not for the persons who are allotted on rental basis other than by the municipality. Government have reviewed the matter and were of the view that since the existing persons who have been in occupation of the houses for more than 25 years, and who deposited 1/5th of the cost of the houses to the municipalities, all those persons who are

in occupation prior to October, 1996 are entitled to the benefits as a special case. In fact, this Court in W.P.No.5330 of 1981 filed by the petitioner in W.P.No.10379 of 1996 granted liberty to the Tahsildar, Zaheerabad, to initiate necessary action for due eviction if he is transferred to any other place.

9. In view of the same, the submission made by the learned counsel for the petitioners that petitioners are entitled the benefit under the G.O. cannot be accepted. Once the petitioners were allotted the quarters otherwise than by the municipality and once they are transferred from the post or retired on attaining the age of superannuation, as the case may be, they have to vacate the said quarters for allotting the same to needy Government employees, within a period of three months from the date of receipt of a copy of this order.

The Writ Petitions are devoid of merit and are accordingly dismissed. No costs.

_____

A. GOPAL REDDY, J

September 14, 2004
MRR

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To:

1 Mandal Revenue Officer,
Zahirabad, Medak.
2 Executive Engineer, PWD & P&B, Sanga Reddy,
Medak.
3 The District Collector,
Sangareddy, Medak.
4 The Municipal Administration Director,
Govt. of A.P., Hyderabad.
5 The Commissioner, Nagara Panchayat,
Zahirabad, Medak.
6 Two C.C.s to the G.P for General Administration, High Court
Buildings, Hyderabad, (OUT).
7 Two C.D. Copies.